IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.08.2017
CORAM:
THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.21346 of 2017
and W.M.P.No.22279 of 2017

N.Sivakumar ... Petitioner

vs.

1. The Chief Manager,
Central Bank of India,
Zonal Office, No.48/49,
Montieth Road, Egmore,
Chennai - 600 008.

2. The Senior Branch Manager,
Central Bank of India,
Mogappair Branch,
No.2, Main Bazar Road,
Collector Nagar, Chennai - 600 037 ... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari, calling for the records of the respondent 1 pursuance to his proceedings in ARB:CHEN:2017-18:127 dated 21.7.2017 and quash the same and consequentially direct the respondent No.2, to release the documents relating to the secured assets available with respondents forthwith in terms of section 13(8) of the SARFAESI Act by adjusting the debts with the repayments made by the petitioner.

For Petitioner : Mr.S.Senthil Nathan

ORDER

(Order of the Court was delivered by S.MANIKUMAR, J)

Material on record discloses that the borrower, has sought for a writ of certiorarified mandamus to quash a letter dated 21.07.2017 of the Central Bank of India, Chennai, 1st respondent on the grounds inter alia that amounts paid earlier, by him have not been taken note of by the bank. According to him, his right under Section 13(8) of the SARFAESI Act, 2002, still continues.

2. Mr.S.Senthil Nathan, learned counsel for the petitioner submitted that demand notice dated 10.04.2014 has been issued directing the petitioner to pay a sum of Rs.65,55,150/-. Thereafter, possession notice has been issued on 06.11.2014, reiterating the amount. Another possession notice was issued on 16.09.2015 followed by a demand notice dated 30.09.2015, for a sum of Rs.70,16,489/- due and payable as on 22.09.2015. Another possession notice dated 19.12.2015, was issued. According to the petitioner, bank has no right to issue repeated possession notices and that therefore, action taken to recover the alleged arrears, is vitiated. He also submitted that before the Tamilnadu State Legal Services Authority, the writ petitioner/borrower, was made to stand before a lion and that the said authority has not taken note of the payments made.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. Perusal of the notice dated 10.04.2014 issued under Section 13(2) of the SARFAESI Act, 2002, shows that M/s.SSEI Crushers (P) Ltd., Chennai, has availed loan of Rs.60 Lakhs. As on 07.04.2014, a sum of Rs.65,55,150/- was due and payable and therefore, the bank has issued demand notice dated 10.04.2014 under Section 13(2) of the SARFAESI Act, 2002, requesting the petitioner to repay the abovesaid amount. Details of the property mortgaged mentioned in the notice under Section 13 of the Act are as hereunder.

Description of Properties standing in the name of Mr.N.Srinivasalu

Survey Details	Extent Area / building	Registration District etc.
S.No.166/3B, Patta No.4376, as per Patta S.No.166/22	All that piece and parcel of land and building bearing Plot No.22, Door No.1/24-A, Venkateswara Nagar, 2nd Main Road, Chennai-600 089 land measuring an extent of 2756 sq.ft and Building in Ground Floor having plinth area of 2000 sq.ft. situated in Ramapuram Village, Ambattur Taluk, Thiruvallur District.	Sub Registration District of Saidapet Joint II and Registration District of South Chennai.

House site situate within the boundaries of:
North by : Plot No.23
South by : Plot No.21
East by : 30 feet wide pathway
West by : Land in Survey No.166/3A
And measuring
East to West on Northern Side : 84 feet
East to West on Southern Side : 83 feet
North to South on Eastern side : 31 feet
North to South on Western side : 35 feet
in all admeasuring 2756 sq.ft

Description of Properties standing in the name of Mr.N.Sivakumar

Survey Details	Extent Area / building	Registration District etc.
S.No.154/1, Menambedu Village, Ambattur Taluk, Thiruvallur District	Schedule A: All that piece and parcel of land and building bearing Old No.60, New No.20, Chitti Babu Naidu Street, DABC Lay Out, Menambedu, Ambattur, Chennai - 600053, measuring an extent of 3632 sq.ft, Plot No.105 & 106. Out of the property in Schedule A. Schedule B: All that piece and parcel of vacant land situated at Plot No.105 & 106, Chitti Babu Naidu Street, DABC Lay Out, measuring 1202.6 sq.ft together with building in Ground Floor and First Floor having plinth area of 920 sq.ft., each and in second floor 200 sq.ft.	Sub Registration District of Ambattur and Registration District of North Chennai.

House site situate within the boundaries of:

	Schedule A	Schedule B
North by	Chitti Babu Naidu Street	Balance land belonging to owner Mr.R.Janakiraman
South by	Road	30 feet road
East by	Plot No.105 & 106 Part	Plot No.105 & 106 Part
West by	Property of Mahalakshmi Ammal	Mahalakshmi Ammal's House
Admeasuring	Schedule A	Schedule B
East to West on Northern Side	37 ½ feet	37 feet
East to West on Southern Side	37 feet	37 feet
North to South on Eastern side	98 feet	32 feet 6 inches
North to South on Western side	97 feet	32 feet 6 inches

5. Pursuant to the above notice, the authorised signatory of the writ petitioner is stated to have sent a letter dated 18.04.2014, stating that due to economic slow down and government policies relating to quarry, power issues, customers are hesitating to place new orders for crushers. Things are getting better and requested co-operation. Authorised signatory of M/s.SSEI Crushers Pvt. Ltd., Chennai has also stated that company would make payments in a short period to bring down the excess amount in their CC Account.

6. But, the bank has not accepted the request of the petitioner and thereafter, without prejudice to the rights, bank has issued a letter dated 22.04.2014, stating that working capital facility of Rs.60 Lakhs was sanctioned, account has become NPA on 05.02.2014 due to irregularity for more than 90 days. Despite several reminders, borrower has not bothered to adjust the overdues and regularize the account and therefore, recovery measures under the SARFAESI Act, has been taken.

7. Bank has issued a possession notice dated 06.11.2014 under Section 13(4) of the Act, but not taken any steps to take physical possession. Subsequently, as on 06.03.2015, a sum of Rs.25,17,840/- towards principal plus interest was due and payable and therefore, bank has issued another possession notice dated 16.09.2015. Description of the immovable property in the said notice dated 16.09.2015 is extracted hereunder.

Description of Properties standing in the name of Mr.N.Sivakumar

Survey Details	Extent Area / building	Registration District etc.
S.No.154/1, Menambedu Village, Ambattur Taluk, Thiruvallur District	Schedule A: All that piece and parcel of land and building bearing Old No.60, New No.20, Chitti Babu Naidu Street, DABC Lay Out, Menambedu, Ambattur, Chennai - 600053, measuring an extent of 3632 sq.ft, Plot No.105 & 106. Out of the property in Schedule A. Schedule B: All that piece and parcel of vacant land situated at Plot No.105 & 106, Chitti Babu Naidu Street, DABC Lay Out, measuring 1202.6 sq.ft together with building in Ground Floor and First Floor having plinth area of 920 sq.ft., each and in second floor 200 sq.ft.	Sub Registration District of Ambattur and Registration District of North Chennai.

House site situate within the boundaries of:

	Schedule A	Schedule B
North by	Chitti Babu Naidu Street	Balance land belonging to owner Mr.R.Janakiraman
South by	Road	30 feet road
East by	Plot No.105 & 106 Part	Plot No.105 & 106 Part
West by	Property of Mahalakshmi Ammal	Mahalakshmi Ammal's House
Admeasuring	Schedule A	Schedule B

	Schedule A	Schedule B
East to West on Northern Side	37 ½ feet	37 feet
East to West on Southern Side	37 feet	37 feet
North to South on Eastern side	98 feet	32 feet 6 inches
North to South on Western side	97 feet	32 feet 6 inches

8. Thereafter, a notice dated 30.09.2015, has been issued under Section 13(2) of the SARFAESI Act, 2002, to (1) M/s.SSEI Crushers (P) Ltd., Ambattur Industrial Estate, Chennai, (2) to the writ petitioner, Director of M/s.SSEI Crushers (P) Ltd., Ambattur Industrial Estate, Chennai and (3) to Mr.N.Srinivasalur, another Director, informing that a sum of Rs.70,16,489/- is due, as on 22.09.2015, followed by another possession notice dated 19.12.2015.

9. Material on record discloses that when the matter stood thus, Central Bank of India, Assets Recovery Branch, Chennai and M/s.SSEI Crushers Private Limited, rep. By its Directors Mr.N.Sivakumar and Mr.N.Srinivasalu Chennai, have entered into a compromise before the Lok Adalat, Tamilnadu State Legal Services Authority. Perusal of the settlement memo, duly signed by the Chief Manager, on behalf of the Central Bank of India, Asset Recovery Branch and M/s.SSEI Crushers Private Limited, rep. By its Directors Mr.N.Sivakumar and Mr.N.Srinivasalu Chennai, shows that the bank claimed Rs.96,30,805/- towards the balance amount of the secured loan No.CC3017820468 and HL 3011805231 against M/s.SSEI Crushers Private Limited by its Directors Mr.N.Sivakumar & Mr.N.Srinivasalu. The total outstanding, as per the statement of the bank was Rs.96,30,805/-. After discussion between the parties, claim has been amicably settled at Rs.88,73,000/-. Both the parties have entered into terms of settlement and that accordingly, the Lok Adalat, Tamilnadu State Legal Services Authority, has passed an award dated 12.11.2016. Lok Adalat is headed by a panel consisting of a Retired / Acting judge, Mr.Justin George and two panel members. Proceedings of the Lok Adalat, Tamilnadu State Legal Services Authority dated 12.11.2016, which is an award, is reproduced hereunder.

LOK ADALAT

(As per Chapter VI of Legal Services Authorities Act, 1987)

Organised by

TAMILNADU STATE LEGAL SERVICES AUTHORITY

Settlement Memo

Type of Case: Suit Filed / Pre Litigation Case

Category of Case - Default in payment / Secured Loan
Case No.77231
Central Bank of India
ASSET RECOVERY BRANCH, CHENNAI BRANCH
Petitioner

Versus

M/s.SSEI CRUSHERS PVT LTD BY ITS DIRECTORS MR. N. SIVAKUMAR & MR.N.SRINIVASALU,
2C/63RD STREET SOUTH PHASE
AMBATTUR INDUSTRIAL ESTATE
CHENNAI
600058 Respondents

Dispute in brief: Default in payment/Secured Loan
The petitioner is claiming Rs.9630805/- towards the balance amount of Secured Loan No.CC3017820468, HL 3011805231 against M/s.SSEI CRUSHERS PVT LTD BY ITS DIRECTORS MR. N. SIVAKUMAR & MR.N.SRINIVASALU,

We, that is Central Bank of India, ASSET RECOVERY BRANCH, CHENNAI Branch.

And M/s.SSEI CRUSHERS PVT LTD BY ITS DIRECTORS MR. N. SIVAKUMAR & MR.N.SRINIVASALU, Opponent in the above said case have arrived at the compromise to settle the matter as follows:-

Terms of Settlement

The officials of the petitioner, Central Bank of India are present. The respondent appears in person. The total outstanding as per the statement of the bank is Rs.9630805/-

1) In the Lok Adalat held today after discussion between both the parties, the claim is amicably settled at Rs.8873000/- (RS. EIGHTY EIGHT LACS SEVENTY THREE THOUSAND ONLY) towards full and final settlement of the total claim amount.

The respondent agrees to pay the above settled amount in the following manner.

1. RS.65,00,000/- ON OR BEFORE 31.12.2016
2. ON PAYMENT OF SAID RS.65,00,000/- DOCUMENT OF RAMAPURAM CHENNAI PROPERTY MORTGAGED TO SECURE CC LOAN SHOULD BE RELEASED TO RESPONDENTS
3. BALANCE AMOUNTOF RS.23,73,000/- SHOULD BE PAID ON OR BEFORE 31.03.2017 WITH 10% S.I. TILL DATE OF PAYMENT.

The respondents further agrees and undertakes that in case of default of the payment/anyone of the above instalments on the respect due dates and in case of default of the entire amount this award will amount to a decree with further interest thereon.

The petitioner is entitled to file E.P. directly in the competent civil court or to file appropriate proceedings before DRT for issuance of Recovery Certificate to recover its full claim amount.

Award is passed accordingly.

We have arrived at these settlement terms willingly before the Lok Adalat held on 12th November 2016 at Chennai. No coercion or force is applied to arrive at the settlement. This case may be disposed off, as settled accordingly.
Dated this day: 12/11/2016
Place: Chennai.

Sd/-	Sd/-
Signature of the petitioner Bank	Signature of the respondent/borrower

AWARD

The matter is amicable settled as above before the Lok Adalat held on 12th November, 2016 at Chennai before the panel consisting of

Head of Panel (Retd/Acting Judge) : Mr.JUSTIN GEORGE
First Panel Member : MR.G.ANANDAN
Second Panel Member : MRS.V.PUSHPALATHA
We pass this award in terms of above settlement

Signature of
1. Head of Panel (Retd/Acting Judge) : Sd/-
2. First Panel Member : Sd/-
3. Second Panel Member : Sd/-
Seal of the TNSLA

10. Thereafter, petitioner has not made any payment. Hence, vide letter dated 21.07.2017, bank has stated that since M/s. SSEI Crushers Private Limited, Chennai has failed to close the loan account as per the Lok Adalat Terms and Conditions, and the settlement is treated as lapsed. Chief Manager, Central Bank of India, Chennai in the letter dated21.07.2017 has stated that the bank would proceed further to recover the further dues as per the rule including SARFAESI action. For brevity, letter dated 21.03.2015, is reproduced.

ARB: CHEN:2017-18:127 21.07.2017

BY SPEED POST WITH AD

M/s.SSEI Crushers Private Limited, By its Directors,
Mr.N.Sivakumar and Mr.N.Srinivasalu,
2C/63rd Street South Phase,
Ambattur Industrial Estate,
Chennai – 600 058.

Sir,

Reg: M/s.SSEI Crushers Pvt. Ltd. - Mr.N.Sivakumar & Mr.N.Srinivasalu - Cent Home Loan Account No.3011805231, SSEI Crushers CC

Account No.: 3017820468.

Ref: Pre Litigation case: case no.77231 dated 12.11.2016 – OTS LOK ADALAT Settlement of Rs.88.73 lacs.

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As per the above LOK ADALAT settlement both account should have been closed on or before 31.03.2017. But you have failed to close the account as per the OTS LOK ADALAT terms and conditions. Hence, the above settlement is treated as lapsed.

Your therefore requested to close both accounts as per contractual dues with other expenses immediately, failing which bank will proceed to recover the full dues, as per rule including SARFAESI action. Please do the needful.

Yours sincerely,

sd/-

(M.V.RAMACHANDRAIAH)
CHIEF MANAGER.

11. Though Mr.S.Senthil Nathan, learned counsel for the petitioner submitted that the Directors have to stand before the Lok Adalat, a lion and that the Lok Adalat has not taken note of the payments already made, we strongly disapprove the submission of the learned counsel for the petitioner. Award dated 12.11.2016, makes it clear that in the Lok Adalat, held on 12.11.2016, before the panel, which consists of a Retired/Acting Judge and members, discussions have been held between the parties and that though the bank has made a claim of Rs.96,30,805/- settlement has been arrived at for Rs.88,73,000/- towards full and final settlement of the total claim amount.

M/s.SSEI Crushers Private Limited by its Directors Mr.N.Sivakumar & Mr.N.Srinivasalu, have signed the settlement. They have agreed to pay the above settlement amount in the following manner

1. RS.65,00,000/- ON OR BEFORE 31.12.2016
2. ON PAYMENT OF SAID RS.65,00,000/- DOCUMENT OF RAMAPURAM CHENNAI PROPERTY MORTGAGED TO SECURE CC LOAN SHOULD BE RELEASED TO RESPONDENTS
3. BALANCE AMOUNTOF RS.23,73,000/- SHOULD BE PAID ON OR BEFORE 31.03.2017 WITH 10% S.I. TILL DATE OF PAYMENT.

12. Before the Lok Adalat, petitioners have agreed and given an undertaking that, in case of default of the payment/anyone of the above instalments on the respect due dates and in case of default of the entire amount, this award will amount to a decree with further interest thereon.

13. Respondent therein /writ petitioner is also aware that the bank is entitled to file E.P. directly in the competent civil court or to file appropriate proceedings before DRT for issuance of Recovery Certificate to recover its full claim amount.

14. Having agreed to pay the abovesaid amount of Rs.88,73,000/- as full quit, in terms of the settlement, the conduct of the petitioner in resiling from the above after nearly 8 months from the date of award, cannot be appreciated.

15. Some of the relevant provisions of the Legal Services Authority Act, 1987 (39 of 1987), are extracted hereunder:

> "19. Organisation of Lok Adalats.— (1) Every State Authority or District Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committee or, as the case may be, Taluk Legal Services Committee may organise Lok Adalats at such intervals and places and for exercising such Jurisdiction and for such areas as it thinks fit.
>
> (2) Every Lok Adalat organised for an area shall consist of such number of—
>
> (a) serving or retired judicial officers; and
>
> (b) other persons, of the area as may be specified by the State Authority or the District Authority or the Supreme Court Legal Services Committee or the High Court Legal Services Committee, or as the case may be, the Taluk Legal Services Committee, organising such Lok Adalat.
>
> (3) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats organised by the Supreme Court Legal Services Committee shall be such as may be prescribed by the Central Government in

consultation with the Chief Justice of India.

(4) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats other than referred to in sub-section (3) shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of —

(i) any case pending before; or

{ii) any matter which is falling within the jurisdiction of and is not brought before, any court for which the Lok Adalat is organised:

Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.

20. Cognizance of cases by Lok Adalats.— (1) Where in any case referred to in clause (i) of sub-section (5) of Section 19,-

(i) (a) the parties thereof agree; or

(b) one of the parties thereof makes an application to the court, for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement; or

(ii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat, the court shall refer the case to the Lok Adalat:

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

(2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organising the Lok Adalat under sub-section (1) of Section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of Section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination:

Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.

(3) Where any case is referred to a Lok Adalat

under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and othe legal principles.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been receive under sub-section (1) for disposal in accordance with law.

(6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub-section (2), that Lok Adalat shall advice the parties to see in a court.

(7) Where the record of the case is returned under sub-section (5) to the court, such court shall proceed to deal with such case from the stage which was reached before such reference under sub-section (1).

21. Award of Lok Adalat.— (1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, as order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of Section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court-fees Act, (7 of) 1870].

(2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.

22. Powers of Lok Adalats.— (1) The Lok Adalat shall, for the purpose of holding any determination under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure (5 of) 1908, while trying a suit in respect of the following matters, namely:—

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document;

(c)the reception of evidence on affidavits;

(d) the requisitioning of any public record or document or copy of such record or document from any court or office; and

(e) such other matters as may be prescribed.

(2) Without prejudice to the generality of the powers contained in sub-section (1), every Lok Adalat shall have the requisite powers to specify its own procedure for the determination of any dispute coming before it.

(3) All proceedings before a Lok Adalat shall be deemed to be judicial proceedings within the meaning of Sections 193, 219 and 228 of the Indian Penal Code Act, (45 of) 1860 and every Lok Adalat shall be deemed to be a civil court for the purpose of Section 195 and Chapter XXVI of the Code of Criminal Procedure Act, (2 of) 1973."

16. As per the provisions of the Legal Services Act, 1987, every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, as order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of Section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court-fees Act.

17. In P.T.Thomas v. Thomas Job reported in 2005 (6) SCC 478, the Hon'ble Supreme Court, after tracing down the meaning of the word, "Lok Adalat", benefits and after considering the provisions under the Legal Services Authority Act, the scope and the finality of an award passed by the Lok Adalat, at Paragraphs 16, 18 to 27, held as follows:

"16. In our opinion, the award of the Lok Adalat is fictionally deemed to be a decree of court and therefore the courts have all the powers in relation thereto as it has in relation to a decree passed by itself. This, in our opinion, includes the powers to extend time in appropriate cases. In our opinion, the award passed by the Lok Adalat is the decision of the court itself though arrived at by the simpler method of conciliation instead of the process of arguments in court. The effect is the same. In this connection, the High Court has failed to note that by the award what was put to an end was the appeal in the District Court and thereby the litigations between brothers forever. The view taken by the High Court, in our view, will totally defeat the object and purposes of the Legal Services Authorities Act, 1987 and render the decision of the Lok Adalat meaningless.

18. What is Lok Adalat?

"The 'Lok Adalat' is an old form of adjudicating system prevailed in ancient India and its validity has not been taken away even in the modern days too. The words 'Lok Adalat' mean 'People's Court'. This system is based on Gandhian principles. It is one of the components of ADR system. As the Indian courts are overburdened with the backlog of cases and the regular courts are to decide the cases involve a lengthy, expensive and tedious procedure. The court takes years together to settle even petty cases. Lok Adalat, therefore provides alternative resolution or devise for expedious and inexpensive justice.

In Lok Adalat proceedings there are no victors and vanquished and, thus, no rancour.

Experiment of 'Lok Adalat' as an alternate mode of dispute settlement has come to be accepted in India, as a viable, economic, efficient and informal one.

LOK ADALAT is another alternative to JUDICIAL JUSTICE. This is a recent strategy for delivering informal, cheap and expeditious justice to the common man by way of settling disputes, which are pending in courts and also those, which have not yet reached courts by negotiation, conciliation and by adopting persuasive, common sense and human approach to the problems of the disputants, with the assistance of specially trained and experienced members of a team of conciliators."

19. Benefits under Lok Adalat

1. There is no court fee and if court fee is already paid the amount will be refunded if the dispute is settled at Lok Adalat according to the rules.

2. The basic features of Lok Adalat are the procedural flexibility and speedy trial of the disputes. There is no strict application of procedural laws like the Civil Procedure Code and the Evidence Act while assessing the claim by Lok Adalat.

3. The parties to the dispute can directly interact with the judge through their counsel which is not possible in regular courts of law.

4. The award by the Lok Adalat is binding on the parties and it has the status of a decree of a civil court and it is non-appealable, which does not cause the delay in the settlement of disputes finally.

In view of above facilities provided by "the

Act" Lok Adalats are boon to the litigating public that they can get their disputes settled fast and free of cost amicably.

Award of Lok Adalat

20. The Lok Adalat shall proceed and dispose the cases and arrive at a compromise or settlement by following legal principles, equity and natural justice. Ultimately, the Lok Adalat passes an award, and every such award shall be deemed to be a decree of the civil court or as the case may be, which is final.

Award of Lok Adalat shall be final

21. The Lok Adalat will pass the award with the consent of the parties, therefore there is no need either to reconsider or review the matter again and again, as the award passed by the Lok Adalat shall be final. Even as under Section 96(3) CPC "no appeal shall lie from a decree passed by the court with the consent of parties". The award of the Lok Adalat is an order by the Lok Adalat with the consent of the parties, and it shall be deemed to be a decree of the civil court, therefore an appeal shall not lie from the award of the Lok Adalat as under Section 96(3) CPC.

22. In Punjab National Bank v. Laxmichand Rai (AIR 2000 MP 301 at p. 304, para 9) the High Court held that:

"This provision of the Act shall prevail in the matter of filing an appeal and an appeal would not lie under the provisions of Section 96 CPC. Lok Adalat is conducted under an independent enactment and once the award is made by a Lok Adalat the right of appeal shall be governed by the provisions of the Legal Services Authorities Act. When it has been specifically barred under provisions of Section 21(2), no appeal can be filed against the award under Section 96 CPC."

The Court further stated that: (AIR pp. 304-05, para 14)

"14. It may incidentally be further seen that even the Code of Civil Procedure does not provide for an appeal under Section 96(3) against a consent decree. The Code of Civil Procedure also intends that once a consent decree is passed by civil court finality is attached to it. Such finality cannot be permitted to be destroyed, particularly under the Legal Services Authorities Act, as it would amount to defeat the very aim and object of the Act with which it has been enacted. Hence, we hold that the appeal filed is not maintainable."

23. The High Court of Andhra Pradesh held that, in Board of Trustees of the Port of Visakhapatnam v. Presiding Officer, Permanent, Lok Adalat-cum-Secy., District Legal Services Authority [(2000) 5 An LT 577], the award is enforceable as a decree and it is final. On all force, the endeavour is only to see that the disputes are narrowed down and make the final settlement so that the parties are not again driven to further litigation or any dispute. Though the award of a Lok Adalat is not a result of a contest on merits just as a regular suit by a court in a regular trial is, however, it is as equal and on a par with a decree on compromise and will have the same binding effect and be conclusive. Just as the decree passed on compromise cannot be challenged in a regular appeal, the award of the Lok Adalat, being akin to the same, cannot be challenged by any of the regular remedies available under law, including by invoking Article 226 of the Constitution and challenging the correctness of the award, on any ground. Judicial review cannot be invoked in such awards, especially on the grounds as were raised in the revision petition.

24. The award of Lok Adalat is final and permanent which is equivalent to a decree executable, and the same is an ending to the litigation among parties.

25. In Sailendra Narayan Bhanja Deo v. State of Orissa [(1956 SCR 72] the Constitution Bench held as follows: (SCR p. 82)

A judgment by consent or default is as effective an estoppel between the parties as a judgment whereby the court exercises its mind on a contested case. (South American and Mexican Co., ex p Bank of England, In re [(1895) 1 Ch. 37] & Kinch v. Walcott [1929 AC 482])

"In South American and Mexican Co., ex p Bank of England, In re, it has been held that a judgment by consent or default is as effective an estoppel between the parties as a judgment whereby the court exercises its mind on a contested case. Upholding the judgment of Vaughan Williams, J., Lord Herschell said (Ch p. 50):

'The truth is, a judgment by consent is intended to put a stop to litigation between the parties just as much as is a judgment which results from the decision of the Court after the matter has been fought out to the end. And I think

it would be very mischievous if one were not to give a fair and reasonable interpretation to such judgments, and were to allow questions that were really involved in the action to be fought over again in a subsequent action.'
To the like effect are the following observations of the Judicial Committee in Kinch v. Walcott (AC at p. 493):

'First of all Their Lordships are clear that in relation to this plea of estoppel it is of no advantage to the appellant that the order in the libel action which is said to raise it was a consent order. For such a purpose an order by consent, not discharged by mutual agreement, and remaining unreduced, is as effective as an order of the Court made otherwise than by consent and not discharged on appeal.' "

26. The same principle has been followed by the High Courts in India in a number of reported decisions. Reference need only be made to the cases of Secy. of State for India in Council v. Ateendranath Das ILR (1936) 63 Cal. 550 at p. 558; Bhaishanker Nanabhai v. Moraji Keshavji & Co. [ILR (1912) 36 Bom 283] and Raja Kumara Venkata Perumal Raja Bahadur v. Thatha Ramasamy Chetty [ILR (1912) 35 Mad. 75]. In the Calcutta case, after referring to the English decisions the High Court observed as follows: (Ateendranath Das case, ILR p. 558)

"On this authority it becomes absolutely clear that the consent order is as effective as an order passed on contest, not only with reference to the conclusions arrived at in the previous suit but also with regard to every step in the process of reasoning on which the said conclusion is founded. When we say 'every step in the reasoning' we mean the findings on the essential facts on which the judgment or the ultimate conclusion was founded. In other words the finding which it was necessary to arrive at for the purposes of sustaining the judgment in the particular case will operate as estoppel by judgment."

27. The Civil Procedure Code contains the following provisions: Order 23 Rule 3 provides for compromise of suit — where it is proved to the satisfaction of the court that a suit has been adjusted wholly in part by any lawful agreement or compromise, written and signed by the parties, the court after satisfying itself about the settlement, it can convert the settlement into a

judgment decree."

18. In the above judgment, the Hon'ble Supreme Court has made it clear that if the Lok Adalat passes an award with the consent of the parties, no appeal shall lie therefrom, as provided under Section 96(3) CPC and furthermore, the same cannot be challenged any of the remedies available under law, including Article 226 of the Constitution of India.

19. During the course of hearing of this writ petition, when we posed a question as to whether any payment has been made after the award, which in terms of Section 21 of the Legal Services Authority Act, 1987, is a decree, learned counsel for the petitioner submitted that no amount has been paid, but then reiterated the bank has not taken not of their remittances made prior to 12.11.2016.

20. Having failed to pay the amounts on the dates set out, and in case of default of the payment/any one of the above installments on the respective due dates, it is unfortunate, that the petitioner has not only blamed the bank as well as the lok adalat. The argument of the learned counsel for the petitioner that bank cannot issue notice either under Section 13 (2) or under Section 13(4) of the SARFAESI Act, on more than one occasion and it amounts to constructive res judicata, is only misconceived and untenable. Act does not prohibit issuance of notice on more than one occasion.

21. Having suffered a decree, in terms of Section 21 of the Legal Services Authority Act, 1987, instant writ petition, filed by the writ petitioner, contending inter alia that still there is right under Section 13 (8) of the SARFAESI Act, is fallacious.

22. On the facts and circumstances of this case, while dismissing the writ petition, we deem it fit to impose cost of Rs.10,000/- to be paid to the respondent bank within two weeks from the date of receipt of a copy of this order, failing which, bank is at liberty to take appropriate action, in the manner known to law.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Manager,
Central Bank of India,
Zonal Office, No.48/49,
Montieth Road, Egmore,
Chennai - 600 008.

2. The Senior Branch Manager,
Central Bank of India,
Mogappair Branch,
No.2, Main Bazar Road,
Collector Nagar, Chennai - 600 037

+1 cc to Mr.S.Senthilnathan Advocate sr 57707

W.P.No.21346 of 2017
and W.M.P.No.22279 of 2017

kgk(co)
aa07/09/2017